

2005 DRAFTING REQUEST

Bill

Received: **05/16/2005**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **jeremey**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Changes to investment credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 05/18/2005	csicilia 06/13/2005	rschluet 06/13/2005	_____	lemery 06/13/2005		State
/P2	jkreye 06/23/2005	csicilia 06/23/2005	pgreensl 06/23/2005	_____	lnorthro 06/23/2005		State
/P3	jkreye 08/05/2005	kfollett 08/09/2005	jfrantze 08/10/2005	_____	lemery 08/10/2005		State
/P4	jkreye	kfollett	jfrantze	_____	lnorthro		State

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/P4	jkreye	kfollett 8/11/05	jfrantze	_____	Inorthro		State

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8/11 8/11

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8/9 8/16 ~~END~~

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FE Sent For:

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6/13/05 p8
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FE Sent For:

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Changes to 2003 Wisconsin Act 255 – May 9, 2005

1. Misuse of “taxable year.”

✓ S. 560.205 (3)(d) requires Commerce to limit the amount of the early stage seed investment credit to \$3.5 million, and the angel investment credit to \$3 million, *per taxable year*. Only tax-paying entities have taxable years, and a taxable year is individual to any particular taxpayer. The term cannot be used in the aggregate. “Taxable year” should be changed to “calendar year” to allow Commerce to manage the credits on an annual basis.

2. “Initial” investment.

✓ The early stage seed investment credit is limited to the claimant’s initial investment in a fund manager [ss. 71.07 (5b) (b), 71.28 (5b) (b), 71.47 (5b) (b)]. Commerce’s concern is that this is unworkable because investors in funds do not make their entire cash investment upon initially committing it; instead they make their cash investments over the life of the fund, as the fund needs it. Keeping “initial” in could prevent these investors from claiming a tax credit on these future cash investments.

The angel investment credit is limited to the claimant’s initial investment in a business [s. 71.07(5d) b)]. Removing “initial” would allow for follow-on investment by the same investor, which is common in this type of financing.

3. Non-residents and part-year residents.

✓ S 71.07 (5d) (c) 3 contains a calculation for allocating the credit. This calculation is circular and unworkable. DOR prefers eliminating the calculation as opposed to fixing it.

4. Special allocation.


The special allocation language [ss. 71.07 (5b) (c) 2., 71.28 (5b) (c) 2., 71.47 (5b) (c) 2] allows members of partnerships, LLCs, and tax option corporations that invest in certified fund managers to internally allocate their share of the credit in proportion to their ownership interest or as specially allocated in their organizational documents. This language does not allow the certified fund manager to specially allocate the credit to all its investors. Suggested language:

Amend sections 71.07(5b)(b), 71.28(5b)(b), and 71.47(5b)(b) as follows:

1. Except as provided in subd. 2, for taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s.560.205, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant’s initial investment paid in the taxable year to a fund manager that the fund manager invests in a business certified under s. 560.205(1).

2. In the case of a partnership, limited liability company or tax-option corporation, computation for the 25 percent limitation under subd. 1 is determined at the entity level rather than at the claimant level and may be allocated among the claimants making investments in such manner as the entity’s organizing documents set forth. The entity shall furnish to the department and the Department of Commerce the names, tax identification numbers of the claimants, amounts of the credits allocated and computation of the allocation of the credits.

5. Carryover of credits earned.

 [Ss 71.07 (5b) ~~2~~(b), 71.28 (5b) ~~2~~(b), 71.47 (5b) ~~2~~(b)] and S 71.07 (5d) ~~3~~(b) contain language tying the credit to the year in which the investment is made. This could have a chilling effect on investments if the yearly cap is reached before the year end. Modify the language to allow investment at any time while limiting the fiscal effect to the annual amounts specified.

6. Further clarify eligible angel tax credit claimants.

✓ S 71.07 (5d) limits the claiming of the angel tax credit to individuals. A common method for angel investors to make investments in high potential businesses is through family trusts and SLPs, for example. The eligibility for claiming the angel tax credit should be broadened to include entities that would typically make these investments.

7. Pass-through language for angel networks.

✓ S 71.07 (5d) should contain pass-through claiming language for angel networks, which organize as a single purpose entity to make an investment.

8. Language referring to professional services.

✓ S 560.275 2(b)1 and 2 and 560.275 2(c) delete "professional services" and replace with "activities" to include those activities that Commerce can fund that are not strictly tied to the hiring of a professional service provider.

71.07(5d) ^(a) 1.a. x b. x 2,



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3051/P1

JK:.....

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 5-18-05

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1 AN ACT/...; relating to: claiming early stage seed and angel investment income
2 and franchise tax credits.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
4 amended to read:

5 71.07 (5b) (b) Filing claims. 1. For taxable years beginning after December
6 31, 2004, subject to the limitations provided under this subsection and s. 560.205,
7 and except as provided in subd. 2., a claimant may claim as a credit against the tax
8 imposed under ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the

1 claimant's initial investment paid in the taxable year to a fund manager that the
2 fund manager invests in a business certified under s. 560.205 (1).

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

3 **SECTION 2.** 71.07 (5b) (b) 2. of the statutes is created to read:

4 71.07 (5b) (b) 2. In the case of a partnership, limited liability company, or
5 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
6 shall be determined ~~on~~ ^{at} the entity level rather than the claimant level and may be
7 allocated among the claimants who make investments in the manner set forth in the
8 entity's organizational documents. The entity shall provide to the department of
9 revenue and to the department of commerce the names and tax identification
10 numbers of the claimants, the amounts of the credits allocated to the claimants, and
11 the computation of the allocations.

12 **SECTION 3.** 71.07 (5d) (a) 1. a. of the statutes is amended to read:

13 71.07 (5d) (a) 1. a. ~~An individual~~ A person who reviews new businesses or
14 proposed new businesses for potential investment of the ~~individual's~~ person's money.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

15 **SECTION 4.** 71.07 (5d) (a) 1. b. of the statutes is amended to read:

16 71.07 (5d) (a) 1. b. A network of ~~individuals~~ persons who satisfy subd. 1.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

17 **SECTION 5.** 71.07 (5d) (a) 2. of the statutes is amended to read:

18 71.07 (5d) (a) 2. "Claimant" means ~~an individual~~ a person who files a claim
19 under this subsection.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

20 **SECTION 6.** 71.07 (5d) (b) of the statutes is amended to read:

1 71.07 (5d) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and in s. 560.205, a claimant may claim as a credit against the tax
3 imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year
4 for 2 years, beginning with the taxable year in which the claimant's initial
5 investment is made, an amount equal to 12.5 percent of the claimant's bona fide
6 angel investment made directly in a qualified new business venture in the taxable
7 year.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326.

8 **SECTION 7.** 71.07 (5d) (c) 3. of the statutes is repealed.

9 **SECTION 8.** 71.07 (5d) (c) 3m. of the statutes is created to read:

10 71.07 (5d) (c) 3m. Partnerships, limited liability companies, and tax-option
11 corporations may not claim the credit under this subsection, but the eligibility for,
12 and the amount of, the credit are based on their payment of amounts under par. (b).
13 A partnership, limited liability company, or tax-option corporation shall compute
14 the amount of credit that each of its partners, members, or shareholders may claim
15 and shall provide that information to each of them. Partners, members of limited
16 liability companies, and shareholders of tax-option corporations may claim the
17 credit in proportion to their ownership interest or as specially allocated in their
18 organizational documents.

19 **SECTION 9.** 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and
20 amended to read:

21 71.28 (5b) (b) *Filing claims.* 1. For taxable years beginning after December
22 31, 2004, subject to the limitations provided under this subsection and s. 560.205,
23 and except as provided in subd. 2., a claimant may claim as a credit against the tax
24 imposed under s. 71.23, up to the amount of those taxes, 25 percent of the claimant's

1 initial investment paid in the taxable year to a fund manager that the fund manager
2 invests in a business certified under s. 560.205 (1).

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326.

3 **SECTION 10.** 71.28 (5b) (b) 2. of the statutes is created to read:

4 71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or
5 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
6 shall be determined ~~on~~ ^{at} the entity level rather than the claimant level and may be
7 allocated among the claimants who make investments in the manner set forth in the
8 entity's organizational documents. The entity shall provide to the department of
9 revenue and to the department of commerce the names and tax identification
10 numbers of the claimants, the amounts of the credits allocated to the claimants, and
11 the computation of the allocations.

12 **SECTION 11.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
13 amended to read:

14 71.47 (5b) (b) Filing claims. 1. For taxable years beginning after December
15 31, 2004, subject to the limitations provided under this subsection and s. 560.205,
16 and except as provided in subd. 2., a claimant may claim as a credit against the tax
17 imposed under s. 71.43, up to the amount of those taxes, 25 percent of the claimant's
18 initial investment paid in the taxable year to a fund manager that the fund manager
19 invests in a business certified under s. 560.205 (1).

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326.

20 **SECTION 12.** 71.28 (5b) (b) 2. of the statutes is created to read:

21 71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or
22 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
23 shall be determined ~~on~~ ^{at} the entity level rather than the claimant level and may be

1 allocated among the claimants who make investments in the manner set forth in the
2 entity's organizational documents. The entity shall provide to the department of
3 revenue and to the department of commerce the names and tax identification
4 numbers of the claimants, the amounts of the credits allocated to the claimants, and
5 the computation of the allocations.

6 **SECTION 13.** 560.205 (3) (d) of the statutes is amended to read:

7 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
8 department of revenue, shall promulgate rules to administer this section. The rules
9 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
10 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
11 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
12 taxable calendar year for ~~taxable~~ calendar years beginning after December 31, 2004.
13 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
14 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
15 certified under sub. (2) at \$3,500,000 per ~~taxable~~ calendar year for ~~taxable~~ calendar
16 years beginning after December 31, 2004.

History: 2003 a. 255.

17 **SECTION 14.** 560.275 (2) (b) of the statutes is amended to read:

18 560.275 (2) (b) *Matching grants and loans.* 1. The department may make a
19 grant or loan from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose
20 of funding professional ~~services~~ activities related to developing a proposed
21 technologically innovative product, process, or service, if the applicant has received
22 a grant from the federal government for a substantially similar purpose.

23 2. The department may make a grant or loan from the appropriation under s.
24 20.143 (1) (dk) or (ik) for the purpose of funding professional ~~services~~ activities

1 related to the accelerated commercialization of a technologically innovative product,
2 process, or service, if the federal government has notified the applicant that the
3 applicant will receive a grant from the federal government for a substantially similar
4 purpose.

History: 2003 a. 255.

5 **SECTION 15.** 560.275 (2) (c) of the statutes is amended to read:

6 560.275 (2) (c) *Bridge grants and loans.* The department may make a grant
7 or loan from the appropriation under s. 20.143 (1) (dk) or (ik) to a person who has
8 received early stage financing from 3rd parties or a grant from the federal
9 government to fund early stage research and development and who has sought
10 additional early stage financing from 3rd parties or applied for an additional grant
11 from the federal government to fund early stage research and development. A grant
12 or loan under this paragraph shall be for the purpose of funding professional services
13 activities necessary to maintain the project research and management team and
14 funding basic operations until the applicant's additional 3rd party financing request
15 or federal grant application is approved or denied.

History: 2003 a. 255.

16 **SECTION 16. Initial applicability.**

17 (1) **EARLY STAGE SEED AND ANGEL VESTMENT CREDITS.** The treatment of sections

18 ~~71.07 (5b) (b) 1. and 2., 71.07 (5d) (a) 1. a. and b. and 2., (b), and (c) 3. and 3m., 71.28~~

19 ~~(5b) (b) 1. and 2., 71.47 (5b) (b) 1. and 2., and 560.205 (3) (d) of the statutes~~ first

20 applies to taxable years beginning on January 1, 2005.

21 (END)

apply

the renumbering and
amendment of sections 71.07 (5b)(b), 71.28(5b)
(b), and 71.47(5b)(b) of the statutes, and the
creation of sections 71.07(5b)(b)2., 71.28(5b)(b)2.,
and 71.47(5b)(b)2. of the statutes

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P1dn

JK:.....

gs

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P1dn
JK:cjs:rs

June 13, 2005

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Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 6-23-05
D-N
due Fri. 7-1

re-gen

1 AN ACT *to repeal* 71.07 (5d) (c) 3.; *to renumber and amend* 71.07 (5b) (b), 71.28
2 (5b) (b) and 71.47 (5b) (b); *to amend* 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 1. b., 71.07
3 (5d) (a) 2., 71.07 (5d) (b), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and
4 *to create* 71.07 (5b) (b) 2., 71.07 (5d) (c) 3m., 71.28 (5b) (b) 2. and 71.47 (5b) (b)
5 2. of the statutes; **relating to:** claiming early stage seed and angel investment
6 income and franchise tax credits.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the **state** fiscal estimate, which will be printed as
an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
8 amended to read:
9 71.07 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
10 to the limitations provided under this subsection and s. 560.205, and except as

provided in subd. 2., a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's initial investment paid in the taxable year to a fund manager that the fund manager invests in a business certified under s. 560.205 (1).

SECTION 2. 71.07 (5b) (b) 2. of the statutes is created to read:

71.07 **(5b)** (b) 2. In the case of a partnership, limited liability company, or tax-option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

SECTION 3. 71.07 (5d) (a) 1. a. of the statutes is amended to read:

71.07 (5d) (a) 1. a. An individual A person who reviews new businesses or proposed new businesses for potential investment of the individual's person's money.

SECTION 4. 71.07 (5d) (a) 1. b. of the statutes is amended to read:

71.07 (5d) (a) 1. b. A network of individuals persons who satisfy subd. 1.

SECTION 5. 71.07 (5d) (a) 2. of the statutes is amended to read:

71.07 **(5d)** (a) 2. “Claimant” means ~~an individual~~ a person who files a claim under this subsection.

SECTION 6. 71.07 (5d) (b) of the statutes is amended to read:

71.07 **(5d)** (b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 560.205, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year

(a) Sec*. or; 71.07(5d)(a) 2m.
 (a) 71.07(5d)(a) 2m. "Person" means ^(a) pass-through ^(entity) entities that ^(is a) are nonoperating ^(B) entities as determined by the department of commerce; ^(a) natural persons; and ^(or an) ^(fiduciary) fiduciaries. ^(entity)

①

for 2 ^{consecutive} years, ~~beginning with the taxable year in which the claimant's initial~~

②

~~investment is made,~~ an amount equal to 12.5 percent of the claimant's bona fide

3

angel investment made directly in a qualified new business venture ~~in the taxable~~

4

year.

5

SECTION 7. 71.07 (5d) (c) 3. of the statutes is repealed.

6

SECTION 8. 71.07 (5d) (c) 3m. of the statutes is created to read:

7

71.07 **(5d)** (c) 3m. Partnerships, limited liability companies, and tax-option

8

corporations may not claim the credit under this subsection, but the eligibility for,

9

and the amount of, the credit are based on their payment of amounts under par. (b).

10

A partnership, limited liability company, or tax-option corporation shall compute

11

the amount of credit that each of its partners, members, or shareholders may claim

12

and shall provide that information to each of them. Partners, members of limited

13

liability companies, and shareholders of tax-option corporations may claim the

14

credit in proportion to their ownership interest or as specially allocated in their

15

organizational documents.

16

SECTION 9. 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and

17

amended to read:

18

71.28 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject

19

to the limitations provided under this subsection and s. 560.205, and except as

20

provided in subd. 2., a claimant may claim as a credit against the tax imposed under

21

s. 71.23, up to the amount of those taxes, 25 percent of the claimant's ~~initial~~

22

investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests

23

in a business certified under s. 560.205 (1).

24

SECTION 10. 71.28 (5b) (b) 2. of the statutes is created to read:

1 71.28 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
2 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
3 shall be determined at the entity level rather than the claimant level and may be
4 allocated among the claimants who make investments in the manner set forth in the
5 entity's organizational documents. The entity shall provide to the department of
6 revenue and to the department of commerce the names and tax identification
7 numbers of the claimants, the amounts of the credits allocated to the claimants, and
8 the computation of the allocations.

9 **SECTION 11.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
10 amended to read:

11 71.47 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
12 to the limitations provided under this subsection and s. 560.205, and except as
13 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
14 s. 71.43, up to the amount of those taxes, 25 percent of the claimant's ~~initial~~
15 investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests
16 in a business certified under s. 560.205 (1).

17 **SECTION 12.** 71.47 (5b) (b) 2. of the statutes is created to read:

18 71.47 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
19 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
20 shall be determined at the entity level rather than the claimant level and may be
21 allocated among the claimants who make investments in the manner set forth in the
22 entity's organizational documents. The entity shall provide to the department of
23 revenue and to the department of commerce the names and tax identification
24 numbers of the claimants, the amounts of the credits allocated to the claimants, and
25 the computation of the allocations.

1 **SECTION 13.** 560.205 (3) (d) of the statutes is amended to read:

2 560.205 **(3)** (d) *Rules.* The department of commerce, in consultation with the
3 department of revenue, shall promulgate rules to administer this section. The rules
4 shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
5 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
6 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
7 ~~taxable~~ calendar year for ~~taxable~~ calendar years beginning after December 31, 2004.
8 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
9 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
10 certified under sub. (2) at \$3,500,000 per ~~taxable~~ calendar year for ~~taxable~~ calendar
11 years beginning after December 31, 2004.

12 **SECTION 14.** 560.275 (2) (b) of the statutes is amended to read:

13 560.275 **(2)** (b) *Matching grants and loans.* 1. The department may make a
14 grant or loan from the appropriation under s. 20.143 (1) (dk) or (ik) for the purpose
15 of funding professional services activities related to developing a proposed
16 technologically innovative product, process, or service, if the applicant has received
17 a grant from the federal government for a substantially similar purpose.

18 2. The department may make a grant or loan from the appropriation under s.
19 20.143 (1) (dk) or (ik) for the purpose of funding professional services activities
20 related to the accelerated commercialization of a technologically innovative product,
21 process, or service, if the federal government has notified the applicant that the
22 applicant will receive a grant from the federal government for a substantially similar
23 purpose.

24 **SECTION 15.** 560.275 (2) (c) of the statutes is amended to read:

1 560.275 (2) (c) *Bridge grants and loans*. The department may make a grant
2 or loan from the appropriation under s. 20.143 (1) (dk) or (ik) to a person who has
3 received early stage financing from 3rd parties or a grant from the federal
4 government to fund early stage research and development and who has sought
5 additional early stage financing from 3rd parties or applied for an additional grant
6 from the federal government to fund early stage research and development. A grant
7 or loan under this paragraph shall be for the purpose of funding professional services
8 activities necessary to maintain the project research and management team and
9 funding basic operations until the applicant's additional 3rd party financing request
10 or federal grant application is approved or denied.

11 **SECTION 16. Initial applicability.**

and 2m.5

12 (1) EARLY STAGE SEED AND ANGEL VESTMENT CREDITS. The treatment of sections
13 71.07 (5d) (a) 1. a. and b. and 2., (b), and (c) 3. and 3m. and 560.205 (3) (d) of the
14 statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b) (b),
15 and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2., 71.28
16 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years beginning
17 on January 1, 2005.

STET:
leave
as
typed

18 (END)

and (5d) (a) 2m.

3051/P2 dm
UK: gjs

Senator Kanavas:

Please review this draft carefully to ensure that
it is consistent with your intent. This draft is based on my
conversation with Amy Cumblad at the department of
commerce.

UK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P2dn

JK:cjs:pg

June 23, 2005

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on my conversation with Amy Cumblad at the Department of Commerce.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

OS-3051 P2Amny - Commerce

- ① Section 5 — should be an individual
- ② Tax option corporation — should be out
 ↳ only under the angel section → (Sd)
- ③ page 3 — 71.07(Sd)(t)
 ↓
 line 4 beginning with it taxable year or
 certified by the Dept of commerce



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3051/P2

JK:cjs:pg

P3
RMR
↓
E/gf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 8-5-05

due Fri. 8-12-05

D-N

re you

1 AN ACT *to repeal* 71.07 (5d) (c) 3.; *to renumber and amend* 71.07 (5b) (b), 71.28
2 (5b) (b) and 71.47 (5b) (b); *to amend* 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 1. b., 71.07
3 (5d) (a) 2., 71.07 (5d) (b), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and
4 *to create* 71.07 (5b) (b) 2., 71.07 (5d) (a) 2m., 71.07 (5d) (c) 3m., 71.28 (5b) (b)
5 2. and 71.47 (5b) (b) 2. of the statutes; **relating to:** claiming early stage seed
6 and angel investment income and franchise tax credits.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~
For further information see the **state** fiscal estimate, which will be printed as
an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
8 amended to read:
9 71.07 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
10 to the limitations provided under this subsection and s. 560.205, and except as

1 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
2 ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's
3 ~~initial investment paid in the taxable year~~ to a fund manager that the fund manager
4 invests in a business certified under s. 560.205 (1).

5 **SECTION 2.** 71.07 (5b) (b) 2. of the statutes is created to read:

6 71.07 (5b) (b) 2. In the case of a partnership, limited liability company, or
7 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
8 shall be determined at the entity level rather than the claimant level and may be
9 allocated among the claimants who make investments in the manner set forth in the
10 entity's organizational documents. The entity shall provide to the department of
11 revenue and to the department of commerce the names and tax identification
12 numbers of the claimants, the amounts of the credits allocated to the claimants, and
13 the computation of the allocations.

14 **SECTION 3.** 71.07 (5d) (a) 1. a. of the statutes is amended to read:

15 71.07 (5d) (a) 1. a. ~~An individual~~ A person who reviews new businesses or
16 proposed new businesses for potential investment of the ~~individual's~~ person's money.

17 **SECTION 4.** 71.07 (5d) (a) 1. b. of the statutes is amended to read:

18 71.07 (5d) (a) 1. b. A network of ~~individuals~~ persons who satisfy subd. 1.

19 **SECTION 5.** 71.07 (5d) (a) 2. of the statutes is amended to read:

20 71.07 (5d) (a) 2. "Claimant" means ~~an individual~~ a person who files a claim
21 under this subsection.

22 **SECTION 6.** 71.07 (5d) (a) 2m. of the statutes is created to read:

23 71.07 (5d) (a) 2m. "Person" means a pass-through entity that is a nonoperating
24 entity, as determined by the department of commerce, a natural person, or fiduciary.

25 **SECTION 7.** 71.07 (5d) (b) of the statutes is amended to read:

1 71.07 (5d) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and in s. 560.205, a claimant may claim as a credit against the tax
3 imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year
4 for 2 consecutive years, ~~beginning with the taxable year~~^{restore} in which the claimant's
5 initial investment is made, ~~an amount equal to 12.5 percent of the claimant's bona~~^{Y restore}
6 fide angel investment made ~~directly in a qualified new business venture in the~~^{as certified by the department of commerce}
7 taxable year.

8 **SECTION 8.** 71.07 (5d) (c) 3. of the statutes is repealed.

9 **SECTION 9.** 71.07 (5d) (c) 3m. of the statutes is created to read:

10 71.07 (5d) (c) 3m. Partnerships, ^{and} limited liability companies, ~~and tax-option~~
11 ~~corporations~~ may not claim the credit under this subsection, but the eligibility for,
12 and the amount of, the credit are based on their payment of amounts under par. (b).
13 A partnership, ^{or} limited liability company, ~~or tax-option corporation~~, shall compute
14 the amount of credit that each of its partners, ^{or} members, ~~or shareholders~~ may claim
15 and shall provide that information to each of them. Partners, ^{and} members of limited
16 liability companies, ~~and shareholders of tax-option corporations~~ may claim the
17 credit in proportion to their ownership interest or as specially allocated in their
18 organizational documents.

19 **SECTION 10.** 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and
20 amended to read:

21 71.28 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
22 to the limitations provided under this subsection and s. 560.205, and except as
23 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
24 s. 71.23, up to the amount of those taxes, 25 percent of the claimant's initial

1 investment paid in the taxable year to a fund manager that the fund manager invests
2 in a business certified under s. 560.205 (1).

3 **SECTION 11.** 71.28 (5b) (b) 2. of the statutes is created to read:

4 71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or
5 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
6 shall be determined at the entity level rather than the claimant level and may be
7 allocated among the claimants who make investments in the manner set forth in the
8 entity's organizational documents. The entity shall provide to the department of
9 revenue and to the department of commerce the names and tax identification
10 numbers of the claimants, the amounts of the credits allocated to the claimants, and
11 the computation of the allocations.

12 **SECTION 12.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
13 amended to read:

14 71.47 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
15 to the limitations provided under this subsection and s. 560.205, and except as
16 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
17 s. 71.43, up to the amount of those taxes, 25 percent of the claimant's initial
18 investment paid in the taxable year to a fund manager that the fund manager invests
19 in a business certified under s. 560.205 (1).

20 **SECTION 13.** 71.47 (5b) (b) 2. of the statutes is created to read:

21 71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or
22 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
23 shall be determined at the entity level rather than the claimant level and may be
24 allocated among the claimants who make investments in the manner set forth in the
25 entity's organizational documents. The entity shall provide to the department of

1 revenue and to the department of commerce the names and tax identification
2 numbers of the claimants, the amounts of the credits allocated to the claimants, and
3 the computation of the allocations.

4 **SECTION 14.** 560.205 (3) (d) of the statutes is amended to read:

5 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
6 department of revenue, shall promulgate rules to administer this section. The rules
7 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
8 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
9 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
10 taxable calendar year for taxable calendar years beginning after December 31, 2004.
11 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
12 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
13 certified under sub. (2) at \$3,500,000 per taxable calendar year for taxable calendar
14 years beginning after December 31, 2004.

15 **SECTION 15.** 560.275 (2) (b) of the statutes is amended to read:

16 560.275 (2) (b) *Matching grants and loans.* 1. The department may make a
17 grant or loan from the appropriation under s. 20.143 (1) ~~(dk) or (ik)~~ ^{(c) or (ie)} for the purpose
18 of funding professional ~~services~~ activities related to developing a proposed
19 technologically innovative product, process, or service, if the applicant has received
20 a grant from the federal government for a substantially similar purpose.

21 2. The department may make a grant or loan from the appropriation under s.
22 20.143 (1) ~~(dk) or (ik)~~ ^{(c) or (ie)} for the purpose of funding professional ~~services~~ activities
23 related to the accelerated commercialization of a technologically innovative product,
24 process, or service, if the federal government has notified the applicant that the

1 applicant will receive a grant from the federal government for a substantially similar
2 purpose.

3 **SECTION 16.** 560.275 (2) (c) of the statutes is amended to read:

4 560.275 (2) (c) *Bridge grants and loans.* The department may make a grant
5 or loan from the appropriation under s. 20.143 (1) ^{(c) or (e)} ~~(a) or (b)~~ to a person who has
6 received early stage financing from 3rd parties or a grant from the federal
7 government to fund early stage research and development and who has sought
8 additional early stage financing from 3rd parties or applied for an additional grant
9 from the federal government to fund early stage research and development. A grant
10 or loan under this paragraph shall be for the purpose of funding professional services
11 activities necessary to maintain the project research and management team and
12 funding basic operations until the applicant's additional 3rd party financing request
13 or federal grant application is approved or denied.

14 **SECTION 17. Initial applicability.**

15 (1) **EARLY STAGE SEED AND ANGEL VESTMENT CREDITS.** The treatment of sections
16 71.07 (5d) (a) 1. a. and b., 2., and 2m., (b), and (c) 3. and 3m. and 560.205 (3) (d) of
17 the statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b)
18 (b), and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2.,
19 71.28 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years
20 beginning on January 1, 2005.

21 (END)

D-Note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P3ins
JK:cjs:pg

Insert A

Under current law, a person may claim an early stage seed investment income and franchise tax credit in an amount equal to 25 percent of the person's initial investment paid to a fund manager that the fund manager invests in a business that is certified by the Department of Commerce (Commerce) to receive such investments. This bill makes certain technical changes to the early stage seed investment credit to simplify the administration of the credit. Under this bill, generally, the amount of the credit that may be claimed by a partner, a member of a limited liability company, or shareholder of a tax-option corporation is based on the total amount invested by the entity to which the partner, member, or shareholder belongs and determined by the entity's organizational documents.

Under current law, an individual may claim an income tax credit in each taxable year for two years, beginning with the taxable year in which the individual's initial investment is made, in an amount equal to 12.5 percent of the individual's bona fide angel investment in a new business venture, as determined by Commerce. This bill makes certain technical changes to the bona fide angel investment credit to simplify the administration of the credit. Under this bill, an individual may claim the bona fide angel investment credit in each taxable year for two years, beginning with the taxable year certified by Commerce. In addition, partnerships and limited liability companies may not claim the credit, but, instead, compute the amount of the credit that each of the partners or members may claim, based on the total amount invested by the partnership or company. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in the organizational documents of the partnership or limited liability company.

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Date

3/5/13
JK: kjf

Kanavas

Senator Kanavas:

Please review this draft carefully to ensure that
it is based
it is consistent with your intent. This draft is based
on my Amy Cumbblad
on my conversation with Amy Cumbblad at the
Department of Commerce.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P3dn
JK:kjf:jf

August 10, 2005

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on my conversation with Amy Cumblad at the Department of Commerce.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Shepherd, Jeremy
Sent: Wednesday, August 10, 2005 3:08 PM
To: Kreye, Joseph
Subject: FW: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

Joe, one more change to the 3051/P3 as requested below by Revenue....thanks Joe!

From: Cumblad, Amy
Sent: Wednesday, August 10, 2005 2:53 PM
To: Shepherd, Jeremy
Subject: FW: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

Aack!!

From: Walgren, Pamela J
Sent: Wednesday, August 10, 2005 2:32 PM
To: Cumblad, Amy
Cc: Held, Carol L; Keal, Julie
Subject: RE: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

Just one comment. Under 71.07 (5d)(a)2m, we think it would be better if "person" was defined as a partnership or limited liability company that is a nonoperating entity.....to make sure it is clear that tax-option corporations do not qualify.

From: Cumblad, Amy
Sent: Wednesday, August 10, 2005 2:14 PM
To: Walgren, Pamela J; Held, Carol L; Keal, Julie
Subject: FW: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

FYI - This draft incorporates the changes as we discussed.

From: Shepherd, Jeremy [mailto:Jeremy.Shepherd@legis.state.wi.us]
Sent: Wednesday, August 10, 2005 2:08 PM
To: Cumblad, Amy
Subject: FW: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

3rd time's a charm? Let me know what you think....

From: Emery, Lynn
Sent: Wednesday, August 10, 2005 9:40 AM
To: Sen.Kanavas
Subject: Draft review: LRB 05-3051/P3 Topic: Changes to investment credits

Following is the PDF version of draft LRB 05-3051/P3 and drafter's note.

08/10/2005



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3051/P3

JK:cjs&kjf

py
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 8-11-05

Today, please

D-N

regen

1 AN ACT *to repeal* 71.07 (5d) (c) 3.; *to renumber and amend* 71.07 (5b) (b), 71.28
2 (5b) (b) and 71.47 (5b) (b); *to amend* 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 2., 71.07
3 (5d) (b), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and *to create* 71.07
4 (5b) (b) 2., 71.07 (5d) (a) 2m., 71.07 (5d) (c) 3m., 71.28 (5b) (b) 2. and 71.47 (5b)
5 (b) 2. of the statutes; **relating to:** claiming early stage seed and angel
6 investment income and franchise tax credits.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an early stage seed investment income and franchise tax credit in an amount equal to 25 percent of the person's initial investment paid to a fund manager that the fund manager invests in a business that is certified by the Department of Commerce (Commerce) to receive such investments. This bill makes certain technical changes to the early stage seed investment credit to simplify the administration of the credit. Under this bill, generally, the amount of the credit that may be claimed by a partner, a member of a limited liability company, or shareholder of a tax-option corporation is based on the total amount invested by the entity to which the partner, member, or shareholder belongs and determined by the entity's organizational documents.

Under current law, an individual may claim an income tax credit in each taxable year for two years, beginning with the taxable year in which the individual's initial investment is made, in an amount equal to 12.5 percent of the individual's

bona fide angel investment in a new business venture, as determined by Commerce. This bill makes certain technical changes to the bona fide angel investment credit to simplify the administration of the credit. Under this bill, an individual may claim the bona fide angel investment credit in each taxable year for two years, beginning with the taxable year certified by Commerce. In addition, partnerships and limited liability companies may not claim the credit, but, instead, compute the amount of the credit that each of the partners or members may claim, based on the total amount invested by the partnership or company. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in the organizational documents of the partnership or limited liability company.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
2 amended to read:

3 71.07 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
4 to the limitations provided under this subsection and s. 560.205, and except as
5 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
6 ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's
7 initial investment paid in the taxable year to a fund manager that the fund manager
8 invests in a business certified under s. 560.205 (1).

9 **SECTION 2.** 71.07 (5b) (b) 2. of the statutes is created to read:

10 71.07 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
11 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
12 shall be determined at the entity level rather than the claimant level and may be
13 allocated among the claimants who make investments in the manner set forth in the
14 entity's organizational documents. The entity shall provide to the department of
15 revenue and to the department of commerce the names and tax identification

partnership or limited liability company

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 3.** 71.07 (5d) (a) 1. a. of the statutes is amended to read:

4 71.07 (5d) (a) 1. a. ~~An individual~~ A person who reviews new businesses or
5 proposed new businesses for potential investment of the ~~individual's~~ person's money.

6 **SECTION 4.** 71.07 (5d) (a) 1. b. of the statutes is amended to read:

7 71.07 (5d) (a) 1. b. A network of ~~individuals~~ persons who satisfy subd. 1.

8 **SECTION 5.** 71.07 (5d) (a) 2m. of the statutes is created to read:

9 71.07 (5d) (a) 2m. "Person" means a ~~pass-through entity~~ that is a nonoperating
10 entity, as determined by the department of commerce, a natural person, or fiduciary.

11 **SECTION 6.** 71.07 (5d) (b) of the statutes is amended to read:

12 71.07 (5d) (b) *Filing claims.* Subject to the limitations provided in this
13 subsection and in s. 560.205, a claimant may claim as a credit against the tax
14 imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year
15 for 2 consecutive years, beginning with the taxable year ~~in which the claimant's~~
16 ~~initial investment is made~~ as certified by the department of commerce, an amount
17 equal to 12.5 percent of the claimant's bona fide angel investment made directly in
18 a qualified new business venture ~~in the taxable year~~.

19 **SECTION 7.** 71.07 (5d) (c) 3. of the statutes is repealed.

20 **SECTION 8.** 71.07 (5d) (c) 3m. of the statutes is created to read:

21 71.07 (5d) (c) 3m. Partnerships and limited liability companies may not claim
22 the credit under this subsection, but the eligibility for, and the amount of, the credit
23 are based on their payment of amounts under par. (b). A partnership or limited
24 liability company shall compute the amount of credit that each of its partners or
25 members may claim and shall provide that information to each of them. Partners

1 and members of limited liability companies may claim the credit in proportion to
2 their ownership interest or as specially allocated in their organizational documents.

3 **SECTION 9.** 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and
4 amended to read:

5 71.28 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
6 to the limitations provided under this subsection and s. 560.205, and except as
7 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
8 s. 71.23, up to the amount of those taxes, 25 percent of the claimant's initial
9 investment paid in the taxable year to a fund manager that the fund manager invests
10 in a business certified under s. 560.205 (1).

11 **SECTION 10.** 71.28 (5b) (b) 2. of the statutes is created to read:

12 71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or
13 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
14 shall be determined at the entity level rather than the claimant level and may be
15 allocated among the claimants who make investments in the manner set forth in the
16 entity's organizational documents. The entity shall provide to the department of
17 revenue and to the department of commerce the names and tax identification
18 numbers of the claimants, the amounts of the credits allocated to the claimants, and
19 the computation of the allocations.

20 **SECTION 11.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
21 amended to read:

22 71.47 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject
23 to the limitations provided under this subsection and s. 560.205, and except as
24 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
25 s. 71.43, up to the amount of those taxes, 25 percent of the claimant's initial

1 investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests
2 in a business certified under s. 560.205 (1).

3 **SECTION 12.** 71.47 (5b) (b) 2. of the statutes is created to read:

4 71.47 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
5 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
6 shall be determined at the entity level rather than the claimant level and may be
7 allocated among the claimants who make investments in the manner set forth in the
8 entity's organizational documents. The entity shall provide to the department of
9 revenue and to the department of commerce the names and tax identification
10 numbers of the claimants, the amounts of the credits allocated to the claimants, and
11 the computation of the allocations.

12 **SECTION 13.** 560.205 (3) (d) of the statutes is amended to read:

13 560.205 **(3)** (d) *Rules.* The department of commerce, in consultation with the
14 department of revenue, shall promulgate rules to administer this section. The rules
15 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
16 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
17 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
18 ~~taxable~~ calendar year for ~~taxable~~ calendar years beginning after December 31, 2004.
19 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
20 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
21 certified under sub. (2) at \$3,500,000 per ~~taxable~~ calendar year for ~~taxable~~ calendar
22 years beginning after December 31, 2004.

23 **SECTION 14.** 560.275 (2) (b) of the statutes, as affected by 2005 Wisconsin Act
24 25, is amended to read:

1 560.275 (2) (b) *Matching grants and loans.* 1. The department may make a
2 grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) for the purpose of
3 funding professional ~~services~~ activities related to developing a proposed
4 technologically innovative product, process, or service, if the applicant has received
5 a grant from the federal government for a substantially similar purpose.

6 2. The department may make a grant or loan from the appropriation under s.
7 20.143 (1) (c) or (ie) for the purpose of funding professional ~~services~~ activities related
8 to the accelerated commercialization of a technologically innovative product,
9 process, or service, if the federal government has notified the applicant that the
10 applicant will receive a grant from the federal government for a substantially similar
11 purpose.

12 **SECTION 15.** 560.275 (2) (c) of the statutes, as affected by 2005 Wisconsin Act
13 25, is amended to read:

14 560.275 (2) (c) *Bridge grants and loans.* The department may make a grant
15 or loan from the appropriation under s. 20.143 (1) (c) or (ie) to a person who has
16 received early stage financing from 3rd parties or a grant from the federal
17 government to fund early stage research and development and who has sought
18 additional early stage financing from 3rd parties or applied for an additional grant
19 from the federal government to fund early stage research and development. A grant
20 or loan under this paragraph shall be for the purpose of funding professional ~~services~~
21 activities necessary to maintain the project research and management team and
22 funding basic operations until the applicant's additional 3rd party financing request
23 or federal grant application is approved or denied.

24 **SECTION 16. Initial applicability.**

(1) **EARLY STAGE SEED AND ANGEL VESTMENT CREDITS.** The treatment of sections 71.07 (5d) (a) 1. a. and b. and 2m., (b), and (c) 3. and 3m. and 560.205 (3) (d) of the statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b) (b), and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2., 71.28 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years beginning on January 1, 2005.

(END)

D-Note

3051/pyd
JK:kgf

Date

Senator Komaras:

This version of the draft incorporates the
latest content change recommended by DOR.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3051/P4dn
JK:kjf:jf

August 11, 2005

Senator Kanavas:

This version of the draft incorporates the latest change recommended by DOR.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Shepherd, Jeremy
Sent: Thursday, August 11, 2005 12:06 PM
To: Kreye, Joseph
Subject: FW: Draft review: LRB 05-3051/P4 Topic: Changes to investment credits
Attachments: LRB-3051_P4; LRB-3051_P4 Drafters_Note

Joe,

Looks good. We'd like a draft we can introduce...THANKS!

From: Northrop, Lori
Sent: Thursday, August 11, 2005 11:01 AM
To: Sen.Kanavas
Subject: Draft review: LRB 05-3051/P4 Topic: Changes to investment credits

Following is the PDF version of draft LRB 05-3051/P4 and drafter's note.

08/11/2005



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3051/P4

JK:cjs&kjf

RMK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 8-11-05

Today

Regen

just turning
into clock 1,
no other
changes

1 AN ACT *to repeal* 71.07 (5d) (c) 3.; *to renumber and amend* 71.07 (5b) (b), 71.28
2 (5b) (b) and 71.47 (5b) (b); *to amend* 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 1. b., 71.07
3 (5d) (b), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and *to create* 71.07
4 (5b) (b) 2., 71.07 (5d) (a) 2m., 71.07 (5d) (c) 3m., 71.28 (5b) (b) 2. and 71.47 (5b)
5 (b) 2. of the statutes; **relating to:** claiming early stage seed and angel
6 investment income and franchise tax credits.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an early stage seed investment income and franchise tax credit in an amount equal to 25 percent of the person's initial investment paid to a fund manager that the fund manager invests in a business that is certified by the Department of Commerce (Commerce) to receive such investments. This bill makes certain technical changes to the early stage seed investment credit to simplify the administration of the credit. Under this bill, generally, the amount of the credit that may be claimed by a partner, a member of a limited liability company, or shareholder of a tax-option corporation is based on the total amount invested by the entity to which the partner, member, or shareholder belongs and determined by the entity's organizational documents.

Under current law, an individual may claim an income tax credit in each taxable year for two years, beginning with the taxable year in which the individual's initial investment is made, in an amount equal to 12.5 percent of the individual's

bona fide angel investment in a new business venture, as determined by Commerce. This bill makes certain technical changes to the bona fide angel investment credit to simplify the administration of the credit. Under this bill, an individual may claim the bona fide angel investment credit in each taxable year for two years, beginning with the taxable year certified by Commerce. In addition, partnerships and limited liability companies may not claim the credit, but, instead, compute the amount of the credit that each of the partners or members may claim, based on the total amount invested by the partnership or company. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in the organizational documents of the partnership or limited liability company.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and
2 amended to read:

3 71.07 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
4 to the limitations provided under this subsection and s. 560.205, and except as
5 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
6 ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's
7 ~~initial investment paid in the taxable year~~ to a fund manager that the fund manager
8 invests in a business certified under s. 560.205 (1).

9 **SECTION 2.** 71.07 (5b) (b) 2. of the statutes is created to read:

10 71.07 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
11 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
12 shall be determined at the entity level rather than the claimant level and may be
13 allocated among the claimants who make investments in the manner set forth in the
14 entity's organizational documents. The entity shall provide to the department of
15 revenue and to the department of commerce the names and tax identification

1 numbers of the claimants, the amounts of the credits allocated to the claimants, and
2 the computation of the allocations.

3 **SECTION 3.** 71.07 (5d) (a) 1. a. of the statutes is amended to read:

4 71.07 (5d) (a) 1. a. ~~An individual~~ A person who reviews new businesses or
5 proposed new businesses for potential investment of the ~~individual's~~ person's money.

6 **SECTION 4.** 71.07 (5d) (a) 1. b. of the statutes is amended to read:

7 71.07 (5d) (a) 1. b. A network of ~~individuals~~ persons who satisfy subd. 1.

8 **SECTION 5.** 71.07 (5d) (a) 2m. of the statutes is created to read:

9 71.07 (5d) (a) 2m. "Person" means a partnership or limited liability company
10 that is a nonoperating entity, as determined by the department of commerce, a
11 natural person, or fiduciary.

12 **SECTION 6.** 71.07 (5d) (b) of the statutes is amended to read:

13 71.07 (5d) (b) *Filing claims.* Subject to the limitations provided in this
14 subsection and in s. 560.205, a claimant may claim as a credit against the tax
15 imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year
16 for 2 consecutive years, beginning with the taxable year ~~in which the claimant's~~
17 ~~initial investment is made~~ as certified by the department of commerce, an amount
18 equal to 12.5 percent of the claimant's bona fide angel investment made directly in
19 a qualified new business venture ~~in the taxable year~~.

20 **SECTION 7.** 71.07 (5d) (c) 3. of the statutes is repealed.

21 **SECTION 8.** 71.07 (5d) (c) 3m. of the statutes is created to read:

22 71.07 (5d) (c) 3m. Partnerships and limited liability companies may not claim
23 the credit under this subsection, but the eligibility for, and the amount of, the credit
24 are based on their payment of amounts under par. (b). A partnership or limited
25 liability company shall compute the amount of credit that each of its partners or

1 members may claim and shall provide that information to each of them. Partners
2 and members of limited liability companies may claim the credit in proportion to
3 their ownership interest or as specially allocated in their organizational documents.

4 **SECTION 9.** 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and
5 amended to read:

6 71.28 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
7 to the limitations provided under this subsection and s. 560.205, and except as
8 provided in subd. 2., a claimant may claim as a credit against the tax imposed under
9 s. 71.23, up to the amount of those taxes, 25 percent of the claimant's ~~initial~~
10 investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests
11 in a business certified under s. 560.205 (1).

12 **SECTION 10.** 71.28 (5b) (b) 2. of the statutes is created to read:

13 71.28 **(5b)** (b) 2. In the case of a partnership, limited liability company, or
14 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
15 shall be determined at the entity level rather than the claimant level and may be
16 allocated among the claimants who make investments in the manner set forth in the
17 entity's organizational documents. The entity shall provide to the department of
18 revenue and to the department of commerce the names and tax identification
19 numbers of the claimants, the amounts of the credits allocated to the claimants, and
20 the computation of the allocations.

21 **SECTION 11.** 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and
22 amended to read:

23 71.47 **(5b)** (b) 1. For taxable years beginning after December 31, 2004, subject
24 to the limitations provided under this subsection and s. 560.205, and except as
25 provided in subd. 2., a claimant may claim as a credit against the tax imposed under

1 s. 71.43, up to the amount of those taxes, 25 percent of the claimant's initial
2 investment paid in the taxable year to a fund manager that the fund manager invests
3 in a business certified under s. 560.205 (1).

4 **SECTION 12.** 71.47 (5b) (b) 2. of the statutes is created to read:

5 71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or
6 tax-option corporation, the computation of the 25 percent limitation under subd. 1.
7 shall be determined at the entity level rather than the claimant level and may be
8 allocated among the claimants who make investments in the manner set forth in the
9 entity's organizational documents. The entity shall provide to the department of
10 revenue and to the department of commerce the names and tax identification
11 numbers of the claimants, the amounts of the credits allocated to the claimants, and
12 the computation of the allocations.

13 **SECTION 13.** 560.205 (3) (d) of the statutes is amended to read:

14 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
15 department of revenue, shall promulgate rules to administer this section. The rules
16 shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1.
17 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
18 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per
19 taxable calendar year for taxable calendar years beginning after December 31, 2004.
20 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
21 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers
22 certified under sub. (2) at \$3,500,000 per taxable calendar year for taxable calendar
23 years beginning after December 31, 2004.

24 **SECTION 14.** 560.275 (2) (b) of the statutes, as affected by 2005 Wisconsin Act
25 25, is amended to read:

1 560.275 (2) (b) *Matching grants and loans.* 1. The department may make a
2 grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) for the purpose of
3 funding professional ~~services~~ activities related to developing a proposed
4 technologically innovative product, process, or service, if the applicant has received
5 a grant from the federal government for a substantially similar purpose.

6 2. The department may make a grant or loan from the appropriation under s.
7 20.143 (1) (c) or (ie) for the purpose of funding professional ~~services~~ activities related
8 to the accelerated commercialization of a technologically innovative product,
9 process, or service, if the federal government has notified the applicant that the
10 applicant will receive a grant from the federal government for a substantially similar
11 purpose.

12 **SECTION 15.** 560.275 (2) (c) of the statutes, as affected by 2005 Wisconsin Act
13 25, is amended to read:

14 560.275 (2) (c) *Bridge grants and loans.* The department may make a grant
15 or loan from the appropriation under s. 20.143 (1) (c) or (ie) to a person who has
16 received early stage financing from 3rd parties or a grant from the federal
17 government to fund early stage research and development and who has sought
18 additional early stage financing from 3rd parties or applied for an additional grant
19 from the federal government to fund early stage research and development. A grant
20 or loan under this paragraph shall be for the purpose of funding professional ~~services~~
21 activities necessary to maintain the project research and management team and
22 funding basic operations until the applicant's additional 3rd party financing request
23 or federal grant application is approved or denied.

24 **SECTION 16. Initial applicability.**

(1) **EARLY STAGE SEED AND ANGEL VESTMENT CREDITS.** The treatment of sections 71.07 (5d) (a) 1. a. and b. and 2m., (b), and (c) 3. and 3m. and 560.205 (3) (d) of the statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b) (b), and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2., 71.28 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years beginning on January 1, 2005.

(END)